

Lakewood Municipal Court  
Local Court Rules

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LMCLR 1.1

SCOPE

These rules govern the procedure in the Lakewood Municipal Court of the City of Lakewood in all criminal proceedings and supplemented in light of the common law and the decisional law of this city. These rules shall not be construed to affect or derogate from the constitutional rights of any defendant.

(Adopted 06/28/2002)

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LMCLR 1.2

PURPOSE AND CONSTRUCTION

These rules are intended to provide for the just determination of every criminal proceeding. They shall be construed to secure simplicity in procedure, fairness in administration, effective justice, and the elimination of unjustifiable expense and delay.

These rules are not intended to supersede or conflict with any statutes covering procedures for criminal and infraction violations or the Criminal Rules for Courts of Limited Jurisdiction (CrRLJ), or the Infraction Rules for Courts of Limited Jurisdiction (IRLJ).

(Adopted 06/28/2002)

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### LMCLR 1.3

#### EFFECT

Except as otherwise provided elsewhere in these rules, on their effective date:

1) Any acts done before the effective date in any proceedings then pending or any action taken in any proceeding pending under rules of procedure in effect prior to the effective date of these rules are not impaired by these rules.

2) These rules also apply to any proceedings in court then pending or thereafter commenced regardless of when the proceedings were commenced, except to the extent that in the opinion of the court, the former procedures should continue to be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedures of these rules.

(Adopted 06/28/2002)

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### LMCLR 1.4

#### DEFINITIONS

As used in these rules, unless the context clearly requires otherwise:

1) "Earliest practicable day" means the next regularly scheduled court calendar.

2) "Next business day" means the next day the court is open for business.

(Adopted 06/28/2002)

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### LMCLR 3.1

#### RIGHT TO AND ASSIGNMENT OF COUNSEL

1) Types of Proceedings. The right to a lawyer shall extend to all criminal proceedings for offenses punishable by loss of liberty.

2) Explaining the Availability of a Lawyer. When a person has been arrested he or she shall as soon as practical be advised of the right to a lawyer. The Lakewood Police Department shall allow a person in custody access to a

telephone and the current contracted public defender's number if they choose to consult with an attorney.

3) Assignment of Lawyer. Unless waived, a lawyer shall be provided to any person who is financially unable to obtain one without causing substantial hardship to the person or to the person's family. The court will consult the current poverty guidelines as provided by RCW 10.101 to determine eligibility. If a person's financial resources are border line, the judge may request the person to sign an "Acknowledgment of Potential Liability of Attorney Fees," and, if found guilty, the court may assess reasonable costs associated with the use of the public defender.

4) Withdrawal of Lawyer. When a case has been set for trial, no lawyer shall be allowed to withdraw, except upon consent of the court for good cause shown and upon substitution of another lawyer or upon the defendant's knowing and voluntary decision to proceed without a lawyer.

(Effective 09/01/08)

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### LMCLR 3.2

#### BAIL FOR NEW DOMESTIC VIOLENCE OFFENSES

When required to reasonably assure appearance in court for those persons arrested and detained in jail for new offenses, bail shall not be set for accused persons arrested for new offenses involving domestic violence or violation of an anti-harassment order except at the preliminary appearance or arraignment.

(Adopted 06/28/2002)

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### LMCLR 3.3

#### TIME FOR TRIAL

Continuances and other delays may be granted as follows:

- 1) On request of the prosecuting authority or the defense with approval from the prosecuting authority.
- 2) Jury trial continuance may be granted if notice is given seven days in advance of trial and a signed speedy trial waiver has been filed. Waiver of Jury trial must be signed and filed with the court at least seven days in advance of trial.

(Adopted 06/28/2002)

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### LMCLR 3.4

#### WARRANT RECALL PROCEDURES

1) If a defendant has not failed to appear for a prior hearing, the defendant may appear within 2 working days by 5 pm and reset their hearing. Prior to resetting the hearing the defendant will complete a Personal Recognizance form and then be given a copy of the form with the next court appearance date noted.

2) If a defendant has failed to appear for a prior hearing, and the warrant ordered by the Judge is for a cash or bond amount, the defendant may post a \$50 non-refundable warrant fee to have the warrant recalled by the clerk. The defendant shall complete a Personal Recognizance form, and be given a copy of

the form with the next court appearance date noted, as well as a copy of the recalled warrant (if it has been printed).

3) A defendant may post the entire bail/bond amount with the clerk to have the warrant recalled. The defendant shall complete a Personal Recognizance form, and be given a copy of the form with the next court appearance date noted, as well as a copy of the recalled warrant (if it has been printed).

4) A defendant has the option to request a Motion to Recall Warrant hearing any time they fail to appear for a court date, and if they have not previously failed to appear for this type of hearing. The defendant shall complete a Motion to Recall Warrant form, and will be given a copy of the form with the next court appearance date noted.

5) The defendant may surrender themselves to the Pierce County Jail on an active warrant. The warrant must have been downloaded successfully to the LESA system and the service copy of the warrant must have been forwarded to LESA Records. If the warrant has not been downloaded, or LESA Records does not have the service copy of the warrant, the clerk may fax a copy of the active warrant to the Pierce County Jail; the copy of the warrant being faxed must show that the copy may be used as a service copy.

6) If a No Contact Order has been filed and approved by the Court, but not previously served on a defendant, the Order will be served on the defendant along with the Personal Recognizance form or notice of Motion to Recall Warrant hearing. If the defendant refuses to accept service of a No Contact Order, the warrant shall be served on the defendant and the defendant shall be transported to the Pierce County Jail.

(Effective 09/01/08)

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LMCLR 3.5  
SUPPRESSION PROCEDURES

Pleadings required for compliance with CrRLJ 3.6 shall be submitted in writing to the court and the nonmoving party at least 14 days in advance of the request for a 3.6 hearing. Responsive pleadings may be submitted within seven days from the date of receipt of the motion for a 3.6 hearing to the moving party and the court. Failure to provide responsive pleadings shall be considered a waiver of the right to file responsive pleadings,

The suppression hearing shall proceed upon the pleadings and any submitted police reports. If, at the time of the hearing, the City elects to provide supplementation or the court finds that additional information is necessary to adequately decide the issues presented by the moving party, a testimonial hearing shall be set. Prior to the testimonial hearing, the court should advise the parties of the issues that remain for consideration. The purpose of this rule is to efficiently and effectively resolve pre-trial issues and to focus the costs of testimonial hearings to cases that warrant it.

(Amended 09/01/2007)

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LMCLR 3.6  
DEFERRED PROSECUTION

In addition to the statutory conditions and requirements of deferred prosecution, each defendant shall pay the monitoring assessment to the Municipal Court in the amount of \$150 plus the BAC fee and any other costs related to the case. All defendants placed on a deferred prosecution will also be placed on five year probation monitoring: Active Supervised Probation for two years, and Monitored Unsupervised Probation for three years. The defendant will

be required to pay the fees for Probation. Restitution is required as a condition of a deferred prosecution. Deferred Prosecution defendants will have ignition interlock installed on all personal vehicles, which they drive, during their period of Active Supervised Probation. An Order deferring prosecution under RCW 10.05 will be granted only to a petitioner who has a written signed contract for treatment and who is participating in the proposed treatment plan at the time the order is entered.

(Adopted 06/28/2002)

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LMCLR 3.7  
DEFERRED PROSECUTION

[Reserved]

(Effective 09/01/2009)

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LMCLR 3.8  
DEFERRED PROSECUTION

[Reserved]

(Effective 09/01/2009)

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LMCLR 3.9  
NVOL WITH ID

If a person charged with violation of RCW 46.20.015 for No Valid Operator's License with Valid Identification (NVOL with ID) is able to acquire a valid operator's license and provide proof to the court within 14 days from the date of violation, or prior to a scheduled mitigation or contested hearing, then the penalty shall be reduced to one hundred twenty-five dollars (\$125).

If a person charged with violation of RCW 46.20.015 for NVOL with ID fails to obtain a valid operator's license within 14 days from the date of violation, or prior to a scheduled mitigation or contested hearing, and the violation is the first NVOL with ID offense in five years, the penalty shall be reduced to one hundred fifty dollars (\$150). The clerk shall be authorized to enter a finding that the infraction was committed and to make appropriate notations in the court record, and the person will be relieved of any further need to appear in court in connection with the infraction.

If a person charged with violation of RCW 46.20.015 for NVOL with ID fails to obtain a valid operator's license within 14 days from the date of violation, or prior to a scheduled mitigation or contested hearing, and the violation is the second or subsequent violation within five years, the penalty shall be reduced to two hundred fifty dollars (\$250). The clerk shall be authorized to enter a finding that the infraction was committed and to make appropriate notations in the court record, and the person will be relieved of any further need to appear in court in connection with the infraction.

(Effective 09/01/07)

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LMCLR 3.10  
BAIL FORFEITURES FOR SPECIFIC CRIMES

If a defendant who is charged with DWLS 3rd Degree has obtained a valid drivers license and presents the license to the court clerk any time prior to entry of finding, the charge will be amended to NVOL with ID and the defendant will pay one hundred and twenty-five dollars (\$125) in penalties. The clerk will be authorized to enter a finding of committed and to make appropriate notations in the court record, and the defendant will be relieved of any further need to appear in court in connection with the infraction.

This court has considered the judicial efficiencies and the fairness to individuals charged with specific crimes i.e.: DWLS 3rd Degree, No Valid Operators License without ID, Trip Permit Violation, Failure to Transfer Title, and finds that it is in the interest of justice to allow bail forfeitures to these charges and authorizes the clerk to cite this local rule as written reason for allowing bail forfeitures and final disposition in accordance with the following schedule:

DWLS 3rd Degree	\$150 First Offense \$250 Second or Subsequent Offense
NVOL without ID	\$150 First Offense \$250 Second or Subsequent Offense
Trip Permit Violation	\$100 First Offense \$200 Second or Subsequent Offense
Failure to Transfer Title Within 45 Days	\$80 First Offense (with transfer) \$150 First Offense (without transfer) \$150 Second or Subsequent Offense (with transfer) \$250 Second or Subsequent Offense (without transfer)

The defendant must post the full amount of bail with the court before the court will permit bail forfeiture as a final disposition of any offense.

(Effective 09/01/07)

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LMCLR 3.11  
BAIL OR BOND PROCEDURES

1) Upon receipt of bail or bond for a case where charges are pending review and filing by the Lakewood Prosecutor, the court shall create a case in JIS and hold the bail or bond for 30 days. If no formal charges have been filed by the Lakewood Prosecutor in that time, then the bail will be returned to the payee, and/or a notice of exoneration will be mailed to the bonding agency that posted the bond.

2) When a case is dismissed or sentence imposed, any financial obligations for fines, penalties and/or costs on the case shall be deducted from bail posted by the defendant, and the remainder shall be returned to the defendant, unless the bail has already been forfeited subject to RCW 10.19.140.

3) If cash bail was posted subsequent to the issuance of a bench warrant, the court shall deduct a warrant fee prior to refunding the bail. This rule shall also apply if a person other than the defendant posted the bail.

4) If bail or bond has been processed for forfeiture, and the judge has ordered the forfeited bail returned to the payee, per RCW 10.19.140 the court shall deduct a warrant fee and/or booking fee, when applicable, prior to the return

of the bail or bond forfeiture.

(Effective 09/01/2005)

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LMCLR 4.1  
ARRAIGNMENTS AND CONTINUANCES OF ALL MATTERS OTHER THAN  
ARRAIGNMENT

1) Arraignment: A lawyer may, pursuant to CrRLJ 4.1(d), enter an appearance on behalf of a client, except in cases in which the docket or charging document states that one or more of the charges involves DUI, Physical Control, any Domestic Violence charge, including, but not limited to, Assault 4th DV, Malicious Mischief DV, Harassment, Violation of an Antiharassment/No Contact Order, Stalking or Harassment, whereupon the defendant's presence is mandatory and cannot be waived. Pursuant to RCW 46.61.50571, the Presiding Judge may waive the appearance of a defendant arrested under RCW 46.61.502, 503 and 504 from the next judicial day to the next regularly scheduled arraignment calendar.

2) Unless otherwise noted for motion, all requests to continue pretrial hearings, motions, trial dates and/or other final dispositions will require an Agreed Order signed by both parties. The signed Agreed Order for Continuance is to be filed no less than four working days before the scheduled hearing and will be either approved or denied by the Judge. If an Agreed Order of Continuance is filed less than four working days before the scheduled hearing, the prosecutor or defense is required to file the Order in open Court for the Judge's approval or denial.

Effective 09/01/04

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LMCLR 4.2  
CONTINUANCES

Continuances will be granted upon written stipulation only, and not upon oral stipulation. Per Rule CrRLJ 3.3 (H.1), a written stipulation between the parties for a continuance must be signed by the defendant. Therefore if a Stipulation for a Continuance in a criminal case is presented to the court without the signature of the defendant on the day of trial, the only option for the court will be to issue a warrant for the defendant's arrest. Additionally, in the absence of a Stipulation, a continuance may be granted only on a showing of good cause; and in the absence of an emergency, said motions must be in writing and noted for hearing on or before the last motion calendar prior to the trial date.

(Adopted 06/28/2002)

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LMCLR 4.3  
PRE-TRIAL HEARINGS

1) Unless otherwise ordered by the court in a specific case for good cause, all cases in which a defendant enters a plea of not guilty shall be set for a pre-trial hearing.

2) (a) The pre-trial hearing shall provide an opportunity for negotiation between the parties. The parties shall confer in good faith regarding any agreed disposition prior to trial. The defendant shall be required to attend the pre-trial hearing unless excused by the court. Failure to attend may result in the issuance of a bench warrant and/or forfeiture of any bond/bail. In the event of a disposition, the parties shall execute the appropriate documents for the Judge to consider the matter on the record. Pre-trial hearings should be held no later than 30 days after arraignment unless otherwise approved by the court.

(b) In cases which proceed to trial, the parties shall identify with specificity all motions and counsel may be required to articulate on the record the basis for any motion. All rulings made at the pre-trial hearing or subsequent motion hearing(s) shall be binding on the parties and shall not be relitigated at trial. Any motion not identified at pre-trial shall be deemed waived unless otherwise allowed by the court. Parties shall identify only those motions for which there is a good faith belief that the motion is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law. Parties shall comply with CrRLJ 3.6.

3) The court shall assign dates and give written notice to the parties for future motion hearings and trial at the time of the pre-trial conference and shall, in so far as is reasonably possible, schedule those hearings in consultation with both parties. Other factors, such as witness availability, shall also be considered.

4) (a) A jury call/readiness hearing will be scheduled in all cases proceeding to jury unless specifically waived by the court in a particular case for good cause shown. This calendar will be held during the week approximately 1 week prior to the scheduled jury trial or as otherwise set by the court. The defendant shall be required to attend this hearing unless excused by the court. Failure to attend the jury call/readiness hearing may result in the issuance of a bench warrant and/or forfeiture of bond/bail.

(b) A request for a jury trial date constitutes an assurance that the parties will be ready to begin jury selection immediately on the morning of trial and submit jury instructions at the call of the jury calendar.  
(Adopted 06/28/2002)

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LMCLR 4.4  
TRIAL BY JURY/PRE-TRIAL CONFERENCE/READINESS HEARING

In every criminal or traffic case in which the defendant requests a jury trial, the clerk shall set a date for a pre-trial conference. The purpose of said conference is for presentation of motions, completion of plea bargaining, and to set a trial date. Discovery shall be in the hands of the party requesting same at least two working days prior to said conference. The clerk will then proceed to set the jury trial.

If the defendant or his/her attorney fails to appear at said conference without good cause, bail will be ordered forfeited and the court will order a bench warrant issued for the arrest of the defendant, or costs will be imposed against a non-appearing attorney.

If the defendant does not appear, any other appearance dates set will be stricken, bail forfeited and the court will order a bench warrant for the arrest of the defendant.

Prior to an assigned jury trial date there shall be held a readiness hearing. At such hearing, it shall be mandatory that the prosecuting authority, the defense counsel, and the defendant be present. At such hearing, the following matters will be concluded:



- 1) All plea bargaining
- 2) Exchange of witness lists
- 3) Providing of any discovery not previously exchanged at the pre-trial conference
- 4) Motions on legal issues arising subsequent to the pre-trial conference or on issues arising due to new evidence.

At the conclusion of the readiness hearing, the court will no longer accept any plea bargaining arrangements. Therefore, the case will be tried by jury unless waived by the defendant, or concluded by a guilty plea to the original charge(s), or a dismissal of the charge(s). When a defendant enters a plea to an offense as charged after having confirmed for trial at the readiness hearing, the court shall assess jury costs in the amount of \$250. Jury costs may be waived by agreement of the parties or at the discretion of the court.

A failure of the defendant to be present at the readiness hearing will result in the issuance of a bench warrant for failure to appear, and the vacating of the jury trial date. The requirements of this rule can be waived only by the judge/commissioner assigned to the case.

(Effective 09/01/08)

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LMCLR 4.5

DISCOVERY - ASSIGNED COUNSEL

The prosecuting authority shall provide discovery to counsel appointed at public expense within 14 days of the prosecuting authority's receipt of the order appointing counsel or other notification of appointment by the court. The order appointing counsel or other notification of appointment by the court shall be considered a written demand for discovery, thereby triggering the prosecuting authority's discovery obligations under CrRLJ 4.7(a).

(Adopted 06/28/2002)

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LMCLR 5.1

EVIDENCE - COURT'S CUSTODY OF EXHIBITS

In a criminal case every exhibit in the court's custody, which is not contraband and for which ownership is not in dispute, shall be returned to the party who produced that exhibit upon motion of that party and expiration of the appeal period. In the event of finding of guilty, for purpose of this rule, the appeal period shall begin on the day of sentencing or deferral of sentencing by the court. Exhibits not withdrawn shall be delivered by the court to the Lakewood Police Department for disposition as abandoned property, or if contraband, for destruction. The court shall release no exhibit without its being receipted for by the receiving person.

(Adopted 06/28/2002)

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LMCLR 5.2

VOIR DIRE

The voir dire examination of jurors shall be conducted under the direction and control of the court with the following

guidelines:

- 1) It is expected that voir dire, in most cases, will consume one hour time or less.
- 2) The court shall ask all general questions and thereafter shall give leave to the respective parties to ask such supplementary questions as may be deemed proper and necessary by the court. The parties shall submit all proposed general questions in writing prior to voir dire.
- 3) The court may intervene without objections in instances of inappropriate questioning and may limit the amount of time each party has to examine a juror or jury panel.

(Adopted 06/28/2002)

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LMCLR 5.3

WRITTEN JUROR INSTRUCTIONS

When a jury is to be instructed in writing, proposed instructions shall be submitted on plain paper with no mark identifying the attorney or party. The original, which shall be free of citations of authority and one copy with the citation of authority shall be submitted to the court at the call of the jury calendar.

(Adopted 06/28/2002)

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LMCLR 6.1  
RESTITUTION

Where the court orders that a defendant pay restitution, but does not set an amount at the time of disposition, a restitution hearing shall be scheduled. The prosecuting attorney shall file a restitution order with supporting documentation at the time of the hearing. If the Prosecutor does not file a restitution order at the time of the hearing, the matter of restitution shall be deemed waived unless otherwise authorized by the court. If the defendant does not object, the proposed amount shall be entered as a judgment. Payment of restitution shall be made through the clerk of the court unless otherwise ordered by the court.

(Effective 09/01/08)

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LMCLR 6.3

PAYMENT ARRANGEMENTS

Upon sentencing, entry of a Stipulated Order of Continuance, or entry of Deferred Prosecution, the defendant shall pay the fines/fees assessed in the case in full within 60 days from the date of entry.

A defendant has the option to establish an account with Signal Credit Management Services to allow for a longer time period to complete the payment of fees/fines. To establish an account, a defendant is required to complete a payment application and submit the fees required by Signal Credit.

If a defendant fails to comply with the payment arrangements as agreed, Signal Credit will notify the court that the defendant has failed to complete the payment arrangements,

and the account will be directly assigned to Allianceone for collection purposes. No notice will be provided to the defendant by the court that the account has been assigned.

(Adopted 06/28/2002)

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#### LMCLR 6.4

##### COMMUNITY SERVICE

The court may allow a defendant to complete community service in lieu of monetary payments in appropriate cases. Community service may be performed with a non-profit organization with prior approval by the court. Community service hours are credited at the most recent minimum wage amount used by the State of Washington, rounded off to the nearest dollar per hour worked toward any fine balances.

(Adopted 06/28/2002)

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#### LMCLR 6.5

##### PROBATION DEPARTMENT SERVICES AND PROCEDURE

The role of the Lakewood Municipal Court Probation Department is to assist the court in the management of criminal justice and thereby aid in the preservation of public order and safety. Pursuant to ARLJ 11, the probation officer shall perform the following duties and follow the following procedures:

(1) Conduct pre/post- sentence investigations with face to face interviews and extensive research that includes but is not limited to criminal history, contact with victims, personal history, social and economic needs, community resource needs, counseling/treatment needs, work history, family and employer support, and complete written pre/post-sentence reports which include sentencing recommendations to the court.

(2) For offenders referred to the misdemeanor probation department, probation officers shall determine their risk to the community using a standardized classification system with a minimum of monthly face to face interviews for offenders classified at the highest level.;

(3) Probation officers shall monitor offenders with face to face interviews depending on risk classification system;

(4) Probation officers shall oversee community agencies providing services required of offenders with input to the judicial officer regarding the following areas:  
alcohol/drug, domestic violence, sexual deviancy, and mental illness.

6. In addition to the duties mentioned above, the probation officer is also required to perform records checks, calendar proceedings and participate in accounting of fees.

7. This rule is based upon the provisions of ARLJ 11.

(Effective 09/01/06)

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#### LMCLR 8.1

## DISCLOSURE OF PUBLIC RECORDS

The following records and files are deemed confidential:

- 1) Affidavits, transcriptions or electronic records for search warrants prior to the return of service of such warrant;
- 2) Affidavits, transcriptions or electronic records for arrest warrants prior to the return of service of such warrant;
- 3) Presentence or after-sentence investigation reports;
- 4) Mental health, psychiatric and medical reports and records;
- 5) Alcohol, drug and controlled substance evaluations;
- 6) Deferred Prosecution Petitions and Stipulations;
- 7) Certified copies of driving and criminal records unless duly admitted into evidence;
- 8) Judge's notes and working documents, whether written or electronic;

Access to confidential records is strictly limited to persons or entities authorized by statute or court order to obtain such records.

Access to confidential records shall be in accord with the "Freedom of Information Act" and statutes relating to privacy.

Requests for access to court records shall be made in writing in the form provided by the court, and fees shall be assessed. The judge or his/her designee shall approve or deny such request, and supply a written reason for denial.

Costs of copying and transcription shall be borne by the person or entity requesting any copies.

No documents or electronic data may be removed from the court office, chambers, court room or probation department, except for storage, without prior written order of the court.

(Adopted 06/28/2002)

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### LMCLR 8.2

#### SCHEDULE OF FEES

The following shall be the schedule of fees charged for certain services provided by the Municipal Court. These amounts are consistent with RCW 3.62.060.

Duplication of Electronic Records	\$10.00/tape
Paper Copy/Fax Expenses	\$1.00/first page
	.50/each additional page
Certified Copy	\$5.00/document
Postage	actual cost
Criminal History Checks	\$15.00

JIS Data Dissemination charges will be set in accordance with the Administrative Office of the Courts.

(Adopted 06/28/2002)

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### LMCLR 8.3

#### WAIVER OF ACCOUNT BALANCES

1. Delinquent account balances under \$10.00 on adjudicated cases where all other conditions of sentencing have been satisfied may be waived administratively and closed on a case-by-case basis.

2. Any case for which jurisdiction has expired, and the only remaining condition of sentence is to pay an account balance that has been in collections for ten years or more and the account has been deemed uncollectible, the remaining balance may be waived administratively and closed. A docket entry will be made on each case reflecting the above for audit purposes, and the case will be closed.

(Effective 09/01/08)

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#### LMCLR 10.1

##### CONTESTED HEARINGS - PRELIMINARY PROCEEDINGS

The defendant and the plaintiff may subpoena witnesses necessary for the presentation of their respective cases. Witnesses should be served at least 7 days before the hearing. The subpoena may be issued by a judge, a court commissioner, or by a party's lawyer. If the party's lawyer issues a subpoena, a copy shall be filed with the court. A subpoena may be directed for service within their jurisdiction to the sheriff of any county or any peace officer of any municipality in the state in which the witness may be or it may be served as provided in CR 45c, or it may be served by first class mail, postage prepaid, sent to the witness' last know address. Service by mail shall be deemed complete upon the third day following the day upon which the subpoena was placed in the mail. If the subpoena is for a witness outside the county, the judge must approve of the subpoena.

If the defendant wishes to subpoena a witness, including a law enforcement officer, the defendant shall deliver in person to the court clerk at the Lakewood Municipal Court office or via mail at least 28 days prior to the date of the hearing, a written request for the issuance of the subpoena and for instructions regarding service of the subpoena. The written request must state the case number, date and time of the hearing, the complete address of the location of the hearing and the name and address of the witness to be named in the subpoena. The defendant shall include a self-addressed, stamped envelope along with the written request.

Upon receipt of the written request, the court clerk shall forward the request to the Lakewood Prosecutor's Office for issuance of a subpoena.

(Adopted 06/28/2002)

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#### LMCLR 10.2

##### INFRACTION WITNESS FEE

Each party is responsible for costs incurred by that party as set forth in RCW 46.63.151. The party requesting the witness shall pay the witness fees and mileage expenses due that witness. Any person who requests production of an electronic speed measuring device expert, and who is thereafter found by the court to have committed the infraction, shall be required to pay the fee charged by the expert as a cost incurred by the party.

(Adopted 06/28/2002)

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LMCLR 10.3

SPEED MEASURING DEVICE

Any certificate admissible under IRLJ 6.6(b), and any other document relating to a Speed Measuring Device, can be filed with the court and maintained by the court as a public record, and shall be available for inspection by the public. Copies shall be provided by the clerk's office on request. There shall be no charge for the copy if it relates to an infraction filed against the person making the request. Otherwise, there shall be a charge for each page copied. These records shall be available without a formal request for discovery. The court shall be entitled to take judicial notice of the fact that any document filed pursuant to this rule has been filed with the court. Documents filed pursuant to this rule shall not be suppressed as evidence merely because there is not a prosecutor present to offer the document as an exhibit at the hearing. If the certificate or document is insufficient, then a motion to suppress the reading of the Speed Measuring Device shall be granted.

(Adopted 06/28/2002)

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LMCLR 10.4

REQUEST FOR SPEED MEASURING DEVICE EXPERT

In the absence of proof of a request to produce an electronic speed measuring device (SMD) expert, a certificate in substantially the form provided under CrRLJ 6.13, IRLJ 6.6 is admissible in lieu of an expert witness in any court proceeding in which the design and construction of an electronic speed measuring device (SMD) is an issue.

The request for an SMD expert under IRLJ 6.6 must be served on the prosecuting authority and filed with the clerk of the court at least 30 days prior to the hearing.

(Adopted 06/28/2002)

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LMCLR 10.5  
DISCOVERY REQUESTS FOR INFRACTIONS

1. Discovery requests regarding infractions that are pending hearing shall be governed by IRLJ 3.1 (b).
2. All discovery requests must have the following information: Complete name of defendant, Case number and mailing address of defendant.
3. No motion to dismiss for failure to comply with IRLJ 3.1 shall be entertained absent proof of service of such discovery request upon the opposing party is on-file with the court, in conformity with CRLJ 5(b).

(Effective 09/01/2009)

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LMCLR 10.6

FORMAT FOR HEARINGS BY MAIL

A defendant may submit a written statement in lieu of court appearance on mitigation and contested hearings. A

determination may be made on the defendant's written statement. The statement shall contain the person's promise to pay the monetary penalty imposed by the court, if any, after reviewing the statement. The statement shall be executed in compliance with RCW 9A.72.085, in substantially the following form:

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true:

I promise that if it is determined that I committed the infraction for which I was cited, or costs are assessed, I will pay the monetary penalty and/or costs authorized by law and assessed by the court.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

(Adopted 06/28/2002)

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LMCLR 10.7

WRITTEN STATEMENT IN LIEU OF HEARING

- 1) Generally. The court shall examine the citing officer's report and any statement submitted by the defendant. The examination shall take place within 90 days after the defendant filed the response to the notice of infraction. The examination may be held in chambers and shall not be governed by the Rules of Evidence.
- 2) Factual Determination. The court shall determine whether the plaintiff has proved by a preponderance of all evidence submitted that the defendant has committed the infraction.
- 3) Disposition. If the court determines that the infraction has been committed, it may assess a penalty in accordance with IRLJ 3.3.
- 4) Notice to Parties. The court shall notify the parties in writing whether an infraction was found to have been committed and what penalty, if any, was imposed, and the date by which such payment shall be made to the court.
- 5) No Appeal Permitted. There shall be no appeal from a decision on written statements, and the decision of the Judge/Commissioner shall be final for all purposes.
- 6) In addition to the requirements of IRLJ 2.4(b)(4), the defendant should be instructed that submitting a written statement will normally mean that they are giving up their right to an in-person hearing and its concomitant right to hearing and question the plaintiff's witnesses, as well as giving up the right to have their own witnesses come to court and testify on their behalf.

(Adopted 06/28/2002)

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LMCLR 10.8

DISABLED PARKING

If a person charged with parking in a disabled parking space without proper parking placard or license plate has a valid disabled parking placard or disabled person's license plate at the time of citation, the defendant may present such

proof to the court along with proper picture identification.  
Upon confirmation with Department of Licensing that the  
placard is valid, the charge will be dismissed.

(Adopted 06/28/2002)

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LMCLR 10.9

OBJECTION TO HEARING DATE

A defendant who objects to the hearing date set by the court pursuant to IRLJ 2.6 shall file with the court and serve upon the plaintiff a written motion for a speedy hearing date; said motion shall be filed and served no later than 10 days from the date of written notice of the hearing date. Failure to comply with this rule shall be a waiver of the objection.

(Adopted 06/28/2002)

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LMCLR 10.10

MANDATORY LIABILITY INSURANCE

1) If a person charged with a violation of RCW 46.30.020, driving a motor vehicle without having proof of valid insurance, presents to the court clerk within 15 days of the violation, or prior to a scheduled mitigation or contested hearing evidence that they had in effect at the time of the infraction liability insurance as required by RCW 46.30.020, then, upon payment of twenty-five dollars (\$25), the case shall be dismissed and the court clerk shall be authorized to make appropriate notation of the dismissal in the court file.

2) If a person charged with a violation of RCW 46.30.020, driving a motor vehicle without having proof of valid insurance, provides proof to the court clerk within 15 days of the violation, or prior to a scheduled mitigation or contested hearing that they subsequently obtained liability insurance in conformity with the requirements of RCW 46.30.020, then the penalty shall be reduced to one hundred and twenty-five dollars (\$125), and the clerk shall be authorized to enter a finding that the infraction was committed and make appropriate notations in the court record. The person will be relieved of any further need to appear in court in connection with this charge on the infraction.

(Effective 09/01/2007)

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LMCLR 10.11

DEFERRED FINDINGS ON INFRACTIONS

Upon entry of a deferred finding for an infraction, the court will monitor the infraction for a period of six months from the date of entry to determine compliance with the conditions set by the court. If a defendant successfully complies with the conditions after the six month period, the charge(s) will be dismissed as agreed.

If a defendant fails to pay the agreed costs within the time limit allowed by the court, or fails to establish an account with Signal Credit per LMCLR 6.3, a finding of committed will be entered for the charge(s), and collections will proceed.

If a defendant obtains a new moving violation during the



first six months of jurisdiction, the court shall extend jurisdiction over the deferral to one year total. During the additional time period, the court shall monitor the new moving violation(s) and determine whether or not a committed finding has been entered. If a committed finding is entered for the new moving violation(s), per RCW 46.63.070(5) the deferral will be revoked and the charge(s) found committed. If the new moving violation(s) is dismissed or found not committed, then the deferral will be monitored by the court until the end of the jurisdiction, which shall be no less than six months from the date of entry of the deferral.

(Effective 09/01/05)

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LMCLR 10.12  
MONETARY PENALTY FOR UNSCHEDULED INFRACTIONS

The Administrative Office of the Courts (AOC) has interpreted School Zone Speeding pursuant to RCW 46.61.440 to be an "unscheduled" infraction under IRLJ 6.2(b). On the assumption that this is a correct interpretation, the Lakewood Municipal Court has by this rule established a local rule as permitted by IRLJ 6.2(b) to make the School Zone Speeding penalties consistent with IRLJ 6.2(d) and the obvious intent of the legislature in adopting RCW 46.61.440(3).

Pursuant to IRLJ 6.2(b) this rule adopts as the penalty for speeding in a school zone the monetary base penalty set for in IRLJ 6.2(d) for the relevant speed, but then doubled pursuant to RCW 46.61.440(3). The base penalty, together with the statutory assessments may not be waived, reduced or suspended. The court will not consider a request for deferred findings under RCW 46.63.070(5) in a school zone speeding case.

Penalty schedule

1-5 m.p.h.	over limit	\$189
6-10 m.p.h.	over limit	\$210
11-15 m.p.h.	over limit	\$271
16-20 m.p.h.	over limit	\$353
21-25 m.p.h.	over limit	\$456
26-30 m.p.h.	over limit	\$558
31-35 m.p.h.	over limit	\$661
Over 35 m.p.h.	over limit	\$784

Infractions resulting from automated traffic safety cameras will not exceed \$250 pursuant to Chapter 167, Laws of 2005.

(Effective 09/01/08)

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LMCLR 10.13  
EXPIRED VEHICLE REGISTRATION

If a person who has been cited with a violation of RCW 46.16.010.3 provides proof to the court clerk within 14 days from the date of violation, or prior to any scheduled mitigation or contested hearing that the vehicle registration was valid at the time of the violation, and that person has had no previous violations of RCW 46.16.010, then the case shall be dismissed with no costs.

If a person charged with the violation of RCW 46.16.010.3.L (Expired Vehicle Registration Less than Two Months) is able to acquire valid registration and provide proof to the court within 14 days from the date of violation, or prior to any scheduled mitigation or contested hearing, then the penalty shall be reduced to \$80.00 and a finding of committed entered.

If a person is charged with the violation of RCW 46.16.010.3.O (Expired Vehicle Registration Over Two Months) is able to acquire valid registration and provide proof to the court within 14 days from the date of violation, or prior to any

scheduled mitigation or contested hearing, then the penalty shall be reduced to \$108.00 and a finding of committed entered.

(Effective 09/01/2009)

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LMCLR 10.14  
Dangerous Dog Appeals

Purpose: RCW 16.08.080 vests the Municipal Court with the authority to hear appeals from a notice of proposed action concerning a "dangerous dog" as defined in RCW 16.08.070(2). This Rule sets forth the procedure for hearing and decision regarding such appeals. This Rule is intended to provide for the expeditious consideration of timely filed notices of appeal. RCW 16.08.080 does not define the nature of the appeal process. The Court interprets the statute to mandate no more than a due process hearing to guarantee the appellant a fair opportunity to understand the basis for the proposed action and offer argument against such action. The minimum due process hearing is therefore comparable to the brief adjudicative proceeding set forth in RCW 34.05.485.

1. Timeliness. To be timely, the appeal must be filed with the Court and a copy filed with the City animal control authority within twenty days of receiving the final determination of the authority. The date of receiving the final determination shall be based upon a sworn statement of the animal control authority or a return receipt for certified mail. An untimely appeal shall be dismissed summarily.

2. The notice of appeal must contain a short and plain statement of the basis of the appeal together with any documents, photographs, or other exhibits in support of the appeal. A notice of appeal which does not include a short and plain statement of the basis of the appeal shall not be accepted. The Court clerk will advise the appellant of the deficiency and require the appeal to be perfected within ten days. An incomplete notice of appeal will be summarily dismissed.

3. Upon receipt of a properly filed notice of appeal, the Court will set the matter for hearing on the next available contested infraction calendar. At the appeal hearing, the City and the Appellant will each be given five minutes to make an oral argument. No testimony will be received. Documents, photographs, affidavits, and other offers of proof may be submitted if they are filed with the Court and served on the opposing party no less than five days before the appeal hearing. Upon a showing of good cause, the Court may set the matter over for the taking of testimony or other evidence.

4. The Court may make an oral ruling at the close of oral argument, or may take the matter under advisement. If the matter is taken under advisement, the Court will issue a written decision or set the matter for further hearing within 30 days.

5. Rules of Discovery do not apply in these proceedings. Any party may make a request for discovery in the context of a request to continue the appeal hearing. Such request shall be made on the record with an offer of proof as to the need for discovery. No discovery shall be ordered and no continuance shall be granted in the absence of a showing that a denial would deny the moving party due process of law.

(Effective 09/01/08)

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